

Notice of Allowability

Application No.

09/272,331

Examiner

Justin P. Misleh

Applicant(s)

ENDO ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed March 26, 2007.
2. ☒ The allowed claim(s) is/are 1, 2, 4 - 7, and 9 - 16 (now respectively renumbered 1 - 14).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


VIVEK SRIVASTAVA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
Part of Paper No./Mail Date 20070611

DETAILED ACTION

Allowable Subject Matter

1. **Claims 1, 2, 4 – 7, and 9 – 16 (now respectively renumbered 1 – 14)** are allowed.
2. The following is an Examiner's statement of reasons for allowance:

In the Decision on Rehearing (mailed July 21, 2005), the Board stated (page 4), "As explained in the Decision (pages 5-6), Needham discloses (column 1, lines 29-31) that three color filters are formed of either red, green, and blue or cyan, yellow, and magenta. Snow teaches (column 29, line 65-column 30, line 2) that for red, green, and blue filters, an arrangement of two superimposed layers each containing a different subtractive primary dye 'offers advantages in light transmission and absorption as compared to employing a filter constructed of an additive primary dye.' Needham further discloses in the description of Figure 4B (column 11, lines 53-56, and column 11, lines 9-20) forming a red, green, and blue color filter using dye containing photoresists for cyan and magenta layers (formed by the method of U.S. Pat. No. 4,808,501 as described in column 2, lines 49-66). Thus, Needham does disclose more than one filter layer being made from a dye containing photoresist." (emphasis added by the Examiner).

In the Decision on Rehearing, the Board additionally stated (page 5), "Claim 3 requires that second and third color layers, each made of a dye containing positive photoresist, be formed such that the third color overlaps both the second color and the substrate. In Needham, the only color that overlaps another color and also the substrate is the cyan layer, which satisfies the requirements of the third layer. However, the cyan overlaps the yellow color filter, which is not

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made from a dye containing photoresist. Further, the combined teachings of Snow and Needham do not suggest modifying the yellow layer to be made from a dye containing photoresist. Thus, the yellow filter cannot be the claimed second color layer. Therefore, we cannot sustain the rejection of claim 3 over Snow and Needham." (emphasis added by the Examiner).

Finally, in the Amendment (filed March 26, 2007), Appellant stated, "Specifically, the features of claim 3 have been wholly incorporated into claim 1 to form amended claim 1. Thus, prior claim 3 is now amended claim 1. Claims 6 and 12 have been amended to depend from amended claim 1. Claims 3, 8 and 17 have been canceled without prejudice or disclaimer of their underlying subject matter." (emphasis added by the Examiner).

3. Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

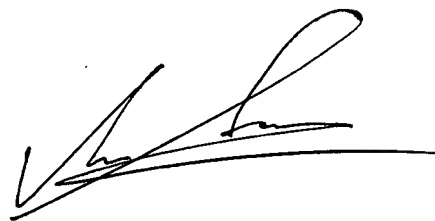
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Vivek Srivastava can be reached on 571.272.7304. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM

June 11, 2007



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